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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/827,481 | 04/06/2001 | Chris Russell | 041892.0206 | 5741 |

34492 7590 10/07/2004

SIDLEY AUSTIN BROWN & WOOD LLP (LAIP GROUP)

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LOS ANGELES, CA 90013

EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/827,481 | Applicant(s) RUSSELL ET AL. | |
| | Examiner Bharat N Barot | Art Unit 2155 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/23/01, 8/9/01, 11/27/01, 12/04/01, 12/27/01, 4/16/02, 12/3/02, 4/25/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. The disclosure is objected to because of the following informalities: The specification does not contain the Serial Numbers of the related US Patent Applications.

Appropriate correction is required.

Drawings

3. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objection

4. Claims 7-9 are objected to because of the following informalities: Claims 7-9 contain "A process as recited in claim 1" in line 1, which is a typographical error.

Appropriate correction is required.

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Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
6. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 21, the phrase "may be" renders the claim(s) indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Other dependent claim, which is not specifically cited above are also rejected because of the deficiencies of its respective parent claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (U.S. Patent No. 6,751,673). Shaw's patent meets all the limitations for claims 1-24 recited in the claimed invention.

9. As to claim 1, Shaw discloses a system for delivering content items over a network to recipient processors within a service region (abstract; figure 1; and column 4 lines 14-57), the system comprising: a plurality of edge servers connected for communication on the network and distributed within the service region, each edge server having a storage facility for storing content items for delivery to recipient processors (figure 3; column 6 lines 44-58; and column 8 lines 19-30); at least one parent server connected for communication on the network, for storing content items and providing content items to edge servers (figure 1; and column 4 line 14-57); and at least one main server connected for communication on the network for providing an interface for receiving and processing requests for content items from recipient processors, wherein each main server is programmed or configured for directing recipient processors to edge servers to obtain requested content items (figures 2-3; column 5 line 43 to column 6 line 58).

10. As to claim 2, Shaw discloses that the network comprises the Internet and the interface comprises a website supported by the at least one main server (figure 1; and column 4 lines 44-47).

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11. As to claim 3, Shaw discloses that each parent server stores all available content items and each edge server stores less than all available content items (figures 2-3; column 5 line 64 to column 6 line 13; and column 8 lines 19-30).

12. As to claim 4, Shaw discloses that each edge server is programmed or configured to receive requests for content items from a recipient processor that is directed to the edge server by the main server and, in response to a request, determine whether the requested content item is stored with the edge server and, if the requested content item is not stored with the edge server, requesting the content item from a parent server (abstract; summary of the invention; figure 1; and column 4 lines 14-57).

13. As to claims 5-6, Shaw discloses that the content items comprise digitally encoded files, each file having at least 500 Mega Bytes of data; and the content items comprise digitally encoded movie files (column 10 line 66 to column 11 line 29; column 12 line 28 to column 13 line 20).

14. As to claim 7, Shaw discloses that the directing recipient processors comprises providing recipient processors with a network address associated with at least one edge server (column 5 lines 22-39; and column 7 line 59 to column 8 line 18).

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15. As to claims 8-9, Shaw discloses that directing recipient processors comprises providing a recipient processor with a uniform resource locator (URL) for locating at least one edge server, the URL also including a token which identifies a requested content item and the recipient processor (column 4 line 58 to column 5 line 39; and column 11 lines 20-29).

16. As to claims 10-18, they are also rejected for the same reasons set forth to rejecting claims 1-9 above, since claims 10-18 are merely a method of operation for the apparatus defined in the claims 1-9.

17. As to claim 19, Shaw teaches that determining whether recipient processors are in a specified geographic region and denying access to request content to recipient processors not within the specified region (figure 1; column 2 lines 35-58; and column 4 line 14-57).

18. As to claim 20, Shaw teaches that storing content items with each edge server comprises determining which content items to store or not to store on an edge server based on a least recently used LRU algorithm and storing content items on the edge server based on the determination (column 8 lines 19-55).

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19. As to claims 21-22, Shaw teaches that directing recipient processors to edge servers comprises determining appropriate edge servers to which recipient processors directed by a load balancing technique, wherein the load balancing technique comprises a Best Distributor Selection BDI system (column 2 lines 35-58; column 3 lines 11-17; column 5 line 22-39; column 6 lines 13-33; and column 9 lines 7-26).

20. As to claims 23-24, they are also rejected for the same reasons set forth to rejecting claims 1-2, since claims 23-24 are merely a method of operation for the apparatus defined in the claims 1-2. Additionally, Shaw teaches that controlling access by recipient processors to content items obtained from edge servers, based on payment information received and processed by at least one main server (column 4 lines 54-57; and column 9 lines 21-26).

Additional References

21. The examiner as of general interest cites the following references.

- a. McCanne, U.S. Patent No. 6,785,704.
- b. Doyel, U.S. Patent No. 6,678,793.

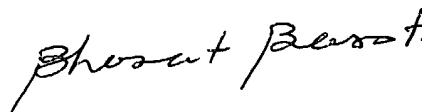
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Contact Information

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (703) 305-4092. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (703) 308-6662. A central official fax number is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.



Patent Examiner Bharat Barot

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September 30, 2004

**BHARAT BAROT
PRIMARY EXAMINER**